



The City of Erie, Pennsylvania

Joseph E. Sinnott, Mayor

October 30, 2006

Sharon Seeley, Esquire
Employment Litigation Section
Patrick Henry Building
Civil Rights Division
US Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC, 20035-5968

Re: United States v. City of Erie, CA No. 04-4 (W.D. Pa)

VIA FACSIMILE TRANSMISSION ONLY: 202-514-1105

Dear Attorney Seeley,

In response to your letter faxed today, I have spoken with Daniel Tempestini Constance Cook; both of whom say they are available on Monday, November 6, 2006 at 10:00 a.m. for deposition at the office of United States Attorney. Mr. Tempestini is not a City employee, and his residence address is 1560 West 40th Street, Erie, PA 16501. I have court appearances after 1:00 p.m. that day, but assume we should be finished well before that time. Ken Zak is not available in the afternoon either.

We dispute your assertion that these individuals are being proffered as "expert witnesses." They are simply fact witnesses who will identify the sources and scope of the Police Civil Service examinations given in the subject years. The Court will not require an expert to compare the test booklets and Preparation Course materials in order to determine that the examinations provided by national police testing services were focused on the same subject areas each time. We are neither required nor able to prove to an absolute certainty that candidates failing the 2002 examination would not have passed in the PAT-failing prior year; but such an inference is manifestly reasonable with similar tests. We cannot understand why the United States is so committed to awarding money and Priority Hiring to candidates who failed a police civil service test which no one has suggested was discriminatory; certainly not on a gender basis.

We also dispute the encyclopedic scope of documentation which you assert was required to be produced by us in order to support our argument regarding the Civil Service failure or low passing score objections we have set forth. I hope to be able to provide you copies of the relevant test booklets at or prior to the depositions, but I learned today that my assumption that

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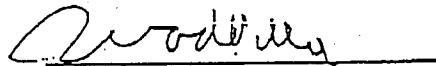
Seeley, 10-31-06
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the City still had such blank booklets in our possession is incorrect. All such materials were returned to the test providers after final scoring. We are now in the process of identifying and contacting the test providers to obtain the booklets, and will provide them to you as soon as they are available, along with sufficient confirming documentation that such booklets were the ones used by us. We did locate in our records a 101-page "Police Officer Prep Course" used in 2000 and, we believe, also in 2002, and this is attached. This course was offered every test administration by the Adult Learning Center of the Erie City School District, 444 West 18th Street, Erie, PA 16502.

I am optimistic that Ms Cook and Mr. Tempestini will be able to provide all of the factual testimony regarding the police civil service testing for the court's evaluation. In the event that any other individual is identified during their depositions as having more direct or detailed knowledge of this matter,

Should you have any questions or comments, please feel free to contact me.

Sincerely,


Gerald J. Villcila, Esquire

Enc.

Cc: Connie Cook
Dan Tempestini

total pages faxed: 104